

## Message Text

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PAGE 01 STATE 125630 TOSEC 050036  
ORIGIN NODS-00

INFO OCT-01 ISO-00 /001 R

DRAFTED BY L/EB:PTRIMBLE:CDJ

APPROVED BY L:HHANSELL

D:DLAMB

S/S-O:S.GOLDSMITH

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P 010212Z MUN 77 ZFF4

FM SECSTATE WASHDC

TO USDEL SECRETARY PRIORITY

C O N F I D E N T I A L STATE 125630 TOSEC 050036

NODIS

E.O. 11652: GDS

TAGS: EAIR, UK, FR

SUBJECT: BRIEF ON CONCORDE

1. AT WHITE HOUSE MTG CHAIRED BY STU EISENSTADT AND  
ATTENDED BY REPS OF JUSTICE, TRANSPORTATION, NSC AND  
STATE (INCLUDING HERB HANSELL), IT WAS DECIDED THAT  
USG WOULD FILE AMICUS BRIEF IN CONCORDE CASE IN RESPONSE  
TO COURT REQUEST.

2. OPENING PART OF BRIEF WOULD BE ENDORSEMENT OF  
COLEMAN DECISION AND REITERATION THAT, AS A POLITICAL  
MATTER, ADMINISTRATION FAVORED TEST FOR CONCORDE.

3. ON QUESTION OF WHETHER PORT AUTHORITY IS PRE-  
EMPTED BY FEDERAL SUPREMACY CLAUSE FROM IMPOSING CON-  
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CORDE BAN, OPTIONS PAPER HAS BEEN SUBMITTED TO  
PRESIDENT ON WHETHER TO ARGUE THE POSITION PREVIOUSLY  
TAKEN BY THE DEPT OF TRANSPORTATION, NAMELY THAT PORT  
AUTHORITY IS NOT PREEMPTED, OR WHETHER INSTEAD TO PRESENT  
THE ARGUMENTS ON BOTH SIDES OF THE QUESTION WITHOUT  
TAKING A POSITION.

4. BRIEF WOULD ALSO ARGUE THAT PORT AUTHORITY HAS  
ACTED ARBITRARILY AND CAPRICIOUSLY, AND THEREFORE THE

LOWER COURT DECISION (ALTHOUGH NOT ITS REASONING)  
WHICH RESTED ON PREEMPTION SHOULD BE AFFIRMED.

5. BRIEF WOULD DECLINE TO DISCUSS ISSUE OF WHETHER  
CONCORDE HAD RIGHT UNDER INTERNATIONAL AGREEMENTS  
TO LAND, CITING SENSITIVITY OF CURRENT U.S.-U.K.  
RENEGOTIATION OF BILATERAL AIR TRANSPORT AGREEMENT.  
THIS WOULD AVOID HAVING TO CALL EXPRESS ATTENTION TO  
PREVIOUSLY EXPRESSED DEPT DISAGREEMENT WITH ARGU-  
MENTS ON THIS ISSUE ADVANCED BY BRITISH AND FRENCH.  
IT WOULD BE GOOD WILL GESTURE DESIGNED TO AVOID FURTHER  
EXACERBATION OF THIS ISSUE IN OUR FOREIGN RELATIONS.

6. EXTENSION OF TIME FOR FILING BRIEF HAS BEEN  
GRANTED TO JUNE 6. CHRISTOPHER

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NNN

\*\*\* Current Handling Restrictions \*\*\* n/a

\*\*\* Current Classification \*\*\* CONFIDENTIAL

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** CAT-A, COMMERCIAL AIRCRAFT, CONCORDE, COURT PROCEEDINGS, FOREIGN RELATIONS, LANDING RIGHTS, TOSEC  
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**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
**Disposition Event:**  
**Disposition History:** n/a  
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**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
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**Review Markings:**  
Margaret P. Grafeld  
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